



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,299	06/27/2001	Mark W. Davis	INXT 1016-1	1994

22470 7590 02/18/2005

HAYNES BEFFEL & WOLFELD LLP  
P O BOX 366  
HALF MOON BAY, CA 94019

EXAMINER

CAMPBELL, JOSHUA D

ART UNIT	PAPER NUMBER
----------	--------------

2179

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,299	<b>Applicant(s)</b> DAVIS ET AL.	
	<b>Examiner</b> Joshua D Campbell	<b>Art Unit</b> 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is responsive to communications: Amendment filed 11/09/2004.
2. Claims 1-12 are pending in the case. Claims 1 and 11 are independent claims.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Prager (US Patent Number 5,943,670, issued on August 24, 1999) in view of Pugh et al. (hereinafter Pugh, US Patent Number 6,658,423, filed on January 24, 2001).

**Regarding independent claim 1,** Prager discloses a method in which in a set of documents the nearest neighbors of a document are selected based on nearest neighbor similarity scores (column 1, line 55-column 2, line 42 of Prager). Prager does not disclose that the documents viewed to be identical are flagged as potential duplicates. However, Pugh discloses a method in which based on detection scores a document is selected as being potentially duplicate (column 7, line 26-column 8, line 28 of Pugh). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of Prager with method of Pugh it would have allowed for duplicates to be eliminated from categories providing more accurate search results.

**Regarding dependent claim 2,** Prager does not disclose that the documents viewed to be similar based on a score are flagged as potential duplicates. However, Pugh discloses a method in which based on detection scores (higher than a certain tolerance) a document is selected as being potentially duplicate (column 7, line 26-column 8, line 28 of Pugh). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of Prager with method of Pugh it would have allowed for duplicates to be eliminated from categories providing more accurate search results.

**Regarding dependent claims 3 and 4,** Prager discloses a method in which the nearest neighbor calculations, which in this case are k nearest neighbor calculations, are not detected for duplicate detection rather they are used to categorize the documents (column 1, line 55-column 2, line 42 of Prager).

**Regarding dependent claims 5 and 6**, Prager discloses a method in which the documents can be text documents with visual formatting (column 4, line 34-column 5, line 3 of Prager).

**Regarding dependent claims 7 and 8**, Prager discloses a method in which the documents may consist of audio presentations (column 4, line 34-column 5, line 3 of Prager). It would have been obvious to one of ordinary skill in the art at the time the invention was made that it was well known that voice recordings and musical performances were audio presentations.

**Regarding dependent claim 9**, Prager discloses a method in which the documents can be images (column 4, line 34-column 5, line 3 of Prager).

**Regarding dependent claim 10**, Prager discloses a method in which only k nearest neighbor calculations are used for similarity scores (column 1, line 55-column 2, line 42 of Prager).

**Regarding independent claim 11 and dependent claim 12**, the claims incorporate substantially similar subject matter as claims 1 and 2. Thus, the claims are rejected along the same rationale as claims 1 and 2.

### ***Response to Arguments***

6. Applicant's arguments filed 11/09/2004 have been fully considered but they are not persuasive.

Regarding the arguments found on pages 6-7 in reference to the combination of the references (Pugh and Prager) as being unsuitable for its intended purpose, the

examiner feels that the arguments are not persuasive. Pugh discloses a method in which based on detection scores a document is selected as being potentially duplicate (column 7, line 26-column 8, line 28 of Pugh). As shown in Pugh, the teachings may be used in the context of a large search engine, however that is not an exclusive usage. As stated in Pugh, "The present invention concerns information management and retrieval in general. More specifically, the present invention concerns detecting, and optionally removing, duplicate and near-duplicate information or content, such as in a repository of documents to be searched for example," (column 1, lines 7-11 of Pugh). At no point is it determined that the teachings of the document may only be used for searching documents of large collections. The intended purpose of the disclosure of Pugh is "...detecting, and optionally removing, duplicate and near-duplicate information or content..." the need for a repository being searched is simply an example of use, not an exclusive use as stated "...such as in a repository of documents to be searched for example." Thus, the Pugh reference is not "destroyed" by the combination with Prager.

Regarding the arguments found on pages 7-8 in reference to the combination of the references (Pugh and Prager) with regard to a potential lack of motivation, the examiner feels that the arguments are not persuasive. The motivation as shown in the previous and current rejection is drawn from the Pugh reference (column 7, line 56-column 8, line 6). This section discloses that in a group of results, near-duplicate documents (which includes exact duplicate documents) may be eliminated and in the final results presentation only one of every set of duplicate documents is presented, thus decreasing unwanted repetitious results and increasing the accuracy of the

returned results. When combined with the methods of Prager, this would increase the accuracy of the results as a whole, thus increasing the accuracy of the results per category.

The examiner notes that a database search using specific terms applied in art rejections which returns no hits is not suffice to declare references disjoint and is in no way determinate enough to overcome an art rejection. A determination such as this may only be made using the content of the references themselves.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D Campbell whose telephone number is (571) 272-4133. The examiner can normally be reached on M-F (8:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC  
February 3, 2005

  
HEATHER R. HERNDON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100